

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-670-W/S - ORDER NO. 94-1091 ✓
OCTOBER 14, 1994

IN RE:	Application of Mountain Bay Estates)	ORDER
	Utility Company, Inc. for Approval)	DISAPPROVING
	of New Rates & Charges for Water and)	BOND
	Sewer Customers in its Service Area)	METHODOLOGY
	in South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the statutory duty listed in S.C. Code Ann., §58-5-240(D)(1976, as amended), which requires any bond proposed by a company to be in a reasonable amount approved by the Commission, with sureties approved by the Commission.

In the present case, Mountain Bay Estates Utility Company, Inc. (Mountain Bay or the Company) has filed a Motion with the Fifth Circuit Court of Common Pleas to place a rate increase into effect under bond while the Commission Orders denying the increase are under appeal, pursuant to the provisions of the above-captioned statute. This Code section requires that this Commission approve the amount proposed and the sureties proposed. In this particular case, Mountain Bay proposes to, in lieu of bond, "deposit all additional rates collected from its customers into a trust account at a South Carolina bank opened for that purpose."

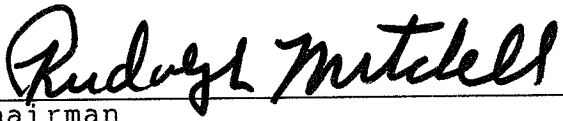
This Commission has examined this proposed method and does not believe that the methodology proposed is sufficient to act as a bond under the circumstances of the case at bar. The Motion to place the rate increase into effect under bond filed by Mountain Bay has two attachments from other cases before the Circuit Court, in which water utilities have placed rate increases into effect under bond. In the case of Heater Utilities, Inc. v. The Public Service Commission of South Carolina, Docket No. 93-CP-40-0972, Heater proposed a bond amount of \$750,000 with Safeco Insurance Company of America acting as surety. In addition, in the case of Carolina Water Service, Inc. v. The Public Service Commission of South Carolina, et. al., Docket No. 93-CP-40-2767, Carolina Water Service posted with the Commission a Letter of Credit in the amount of \$1,140,000.

The Commission believes that the bonds proposed in those cases were appropriate, in that they insured refunds in case of a Court affirmance of the Commission Orders from a separate and distinct fund. In the case at bar, Mountain Bay simply proposes to escrow additional rates collected from its customers. No additional fund or surety whatsoever is proposed to ensure that the monies would be available for refunds should Mountain Bay lose at the Circuit and Supreme Court levels. For theses reasons, this Commission disapproves of the bond methodology proposed by Mountain Bay, and does not approve either the amount (which has not been specified) or of the fact that there is a lack of surety in this particular case. This Order shall be transmitted to the

DOCKET NO. 93-670-W/S - ORDER NO. 94-1091
OCTOBER 14, 1994
PAGE 3

Circuit Court accordingly. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)